

REMARKS

Summary Of Office Action

Claims 1-23 are pending in this application.

The Examiner allowed claims 1-21.

Claims 22 and 23 were finally rejected under 35 U.S.C. § 103(a) as being obvious from Jackson et al. U.S. Patent No. 5,716,355 (hereinafter "Jackson '355") in view of Cotrel U.S. Patent No. 5,601,552 (hereinafter "Cotrel"), Drewry et al. U.S. Patent No. 5,947,966 (hereinafter "Drewry '355"), and Jackson U.S. Patent No. 5,980,523 (hereinafter "Jackson '523").

Summary Of Applicants' Reply

Applicants appreciate the allowance of claims 1-21.

Reconsideration of this application in view of the following remarks is respectfully requested.

Rejections Of Claims 22 and 23 Under 35 U.S.C. § 103(a)

Claims 22 and 23 were rejected under 35 U.S.C. §103(a) as being obvious from the combination of Jackson '355 and any one of Cotrel, Drewry, and Jackson '523. The Examiner said it would have been obvious to have substituted the two-piece hook structure of Jackson '355 with the conventional one-piece hook structure of the prior art as evidenced by Cotrel, Drewry, and Jackson '523 in order to simplify the construction and use of the connector.

These rejections are respectfully traversed.

Independent claim 22 defines a connector having a hook that has an opening for receiving a longitudinal member. The hook is configured to secure the longitudinal member to its inner surface while maintaining the opening.

Jackson '355 does not show or suggest such a connector. In contrast, Jackson '355 discloses in its FIG. 12 a two-piece hook structure comprising a base 121, a cap 123, and an opening (shown by arrow 129). To secure a spinal rod in the two-piece hook structure, the cap closes the opening.

Cotrel, Drewry, and Jackson '523 each disclose a one-piece hook structure that has an opening for receiving a spinal rod. A set screw secures the spinal rod in the one-piece hook structure while maintaining the opening.

"The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." MPEP § 2143.01(III).

Jackson '355 discourages the substitution of its two-piece hook structure with a one-piece hook structure by teaching that its cap 123 plays an important role in limiting axial movement of base 121 along the spinal rod:

Axial movement of the base along the spinal rod is limited not only by the friction between the channel bottom [of the base] and the rod but also by the fact that, due to the curvature in the flanges and receiver grooves in the base and the cap, axial movement of the base cannot take place ...

Emphasis added.

Thus, substituting the two-piece hook structure of Jackson '355 with the one-piece hook structure of any one of the other references results in a loss of the advantage provided by cap 123 as taught by Jackson '355.

Furthermore, none of the cited references disclosing a one-piece hook structure teaches or suggests that its structure provides at least comparable axial movement-limiting capabilities as the base and cap of Jackson '355.

Moreover, none of the cited references disclosing a one-piece hook structure teaches or suggests that using a one-piece hook structure outweighs the advantage of using the base and cap of Jackson '355.

"The teaching or suggestion to make the claimed combination ... must ... be found in the prior art, not in applicant's disclosure." MPEP § 2143.

Thus, the prior art provides no reason why a person of ordinary skill in the art would have been motivated to disregard the advantage of using the base and cap of Jackson '355 in order to substitute them with a one-piece hook structure.

This substitution is therefore undesirable and renders the combination of Jackson '355 and any one of Cotrel, Drewry, and Jackson '523 improper.

Accordingly, the rejection of independent claim 22 for obviousness is improper, and that claim should thus be allowable.

For at least these reasons, dependent claim 23, which depends from independent claim 22, should also be allowable (i.e., dependent claims are allowable if their independent claim is allowable).

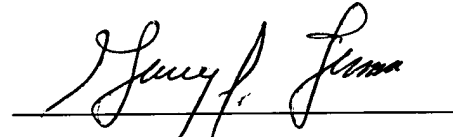
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Applicants respectfully request that the rejections of claims 22 and 23 under 35 U.S.C. §103(a) be withdrawn.

Conclusion

The foregoing demonstrates that claims 1-23 are allowable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Garry J. Tuma", is written over a horizontal line.

Garry J. Tuma
Registration No. 40,210
Attorney for Applicants

JONES DAY
Customer No. 51832
222 East 41st Street
New York, New York 10017
(212) 326-3939